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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,125	12/15/2003	Bruce Williams	061270-0876	1954

  

58898	7590	09/21/2007
LEMPIA FORMAN LLC 223 W. JACKSON BLVD. SUITE 620 CHICAGO, IL 60606		

  

EXAMINER	
GARRETT, ERIKA P	

  

ART UNIT	PAPER NUMBER
3636	

  

NOTIFICATION DATE	DELIVERY MODE
09/21/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@lempialaw.com  
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## Office Action Summary

Application No.

10/734,125

Applicant(s)

WILLIAMS ET AL.

Examiner

Erika Garrett

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-9, 21-23, 29-33 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-9, 29-33 and 35-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-9, 29-33, and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reithmeier (6,273,509) in view of Carlson (5,695,245). Reithmeier discloses the use of a child seat comprising a backrest having a central top portion (22) and a bottom portion (14), each of the top portion and the bottom portion having a support surface to engage and support a portion of an occupant's body, wherein the central support surface of the top portion and bottom portion are substantially co-planar to form a substantially continuous support surface when the top portion is in a overmost position, the top portion being movably connected to and vertically adjustable relative to the bottom portion, a flexible latch (70) on one of the top and bottom portions; a series of notches (26) located in the other of the top and bottom portions, wherein the latch is positioned to engage a selected one of the notches to fix the relative vertical position of the top portion to the bottom portion; and a release mechanism (46) configured to selectively disengage the latch from the notch.

3. The latch is configured to bend when contacted by a part of the release mechanism, see figure 4. The part of the release mechanism includes a wedge (68)

positioned to contact the latch; the release mechanism includes a handle that is selectively movable to disengage the latch from the notch.

4. Further comprising an elongate rail (20) connected to the handle and adapted to contact the latch and disengage the latch from the notch. The latch is biased (86) toward engagement with one of the notches; wherein the latch is elastically deformed when disengaged from the notch. The latch is bendable and the release mechanism has a rail that is arranged to slide on the backrest into contact with the latch to thereby force the latch to bend and disengage from the notch. The handle is configured to move downward toward a base of the child seat to disengage the latch from the notch.

5. The top portion of the backrest slides in a guide section (34) of the bottom portion. The rail includes a ramped surface positioned so that when the latch contacts the rail, the latch slides along the ramp to disengage from the notch.

6. Reithmeier is discussed above, shows the use of the claimed invention. If it were found that the central support surface is not co-planar, it would have been obvious to one of ordinary skill in the art at the time of invention of Reithmeier in view of Carlson to provide a smooth back support surface.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 4-9,29-33 and 35-37 have been considered but are moot in view of the new ground(s) of rejection.

8. In response to applicants argument that "*Reithmeier does not teach the use of a flexible latch*". The examiner is of the opinion that Reithmeier does in fact teach the use

of a flexible latch by way of the pivot axis 64 and rib 62. See column 6 line 42-65 and column 7 lines 1-16.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 571-272-6859. The examiner can normally be reached on Monday-Thursday 9:00 a.m.-5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EG 

September 12, 2007



DAVID DUNN  
SUPERVISORY PATENT EXAMINER